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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/204,013 12/01/98 BALDWIN

W 8530.318USC1

023552
MERCHANT & GOULD
P O BOX 2903
MINNEAPOLIS MN 55402-0903

QM01/1120

EXAMINER

FELHAM, J

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 11/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/204,013

Applicant(s)
Baldwin et al

Examiner
Joseph Pelham

Group Art Unit
3742



☒ Responsive to communication(s) filed on 7 Sep 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 20-35 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 20-35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The Examiner acknowledges Applicant's submission of the CPA filed September 7, 2000. Claims 20-35 are now pending.

2. Claims 20-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5454471 to Norvell in view of U.S. Patent 5750962 to Hyatt.

Norvell discloses, at Figures 1-5 and column 7, line 21, through column 8, line 7, a method for transporting cooked pizzas substantially as claimed, including an interior sub-chamber for a heat retention member and hook and loop fasteners. Norvell does not disclose a heating coil in thermal contact with the surface of sealed heat retention member, a thermostat which opens at 95° - 105°C, AC or DC power for the heating coil, a dielectric oil heat retention member, or a rigid base for the heat retention member.

Referring to Figures 1-8, and column 3, lines 21-60, Hyatt discloses a heating coil 24, 26 in thermal contact with a sealed heat retention member 18, a thermostat 30, and AC or DC power for the heating coil. It would have been obvious to one of ordinary skill in the art to adapt the coil, thermostat, and power means of Hyatt to the device of Norvell to allow more convenient heating of the enclosure.

While Hyatt does not explicitly disclose a dielectric oil heat retention member, a rigid base for the heat retention member, or a thermostat which opens at 95° - 105°C, such limitations cannot be regarded to patentably distinguish the claimed invention over the prior art of record, since all are well known in the art or determined by routine engineering considerations. Hence, it would have been obvious to one of ordinary skill in the art to use a dielectric oil since such is an inexpensive and widely available heat storage medium, to provide a rigid base since Hyatt discloses food warmers as an intended application of the heating device, and such use would necessitate a rigid form to allow handling and insertion of the device, and to select a thermostat which opens at 95° - 105°C since the desired temperature of the particular food placed in the warmer would determine the temperature range.

Response to Arguments

3. Applicant's arguments filed September 7, 2000, have been fully considered but they are not persuasive.

Applicants argue that the disclosure of Hyatt would not have suggested placing the electric heater of Hyatt in the pizza carrier of Norvell "at the same time that a cooked pizza is provided within the case." Hyatt discloses exactly a heat retention member comprising a heating element and power cord, and explicitly identifies its advantage over the microwave heating means disclosed by Norvell (column 1, lines 51-62). Further, the mention by Norvell (column 8, lines 11-12) of battery heating means shows that it is intended for electrical connection while in use, hence "at the same time that a cooked pizza is provided within the case," as claimed.

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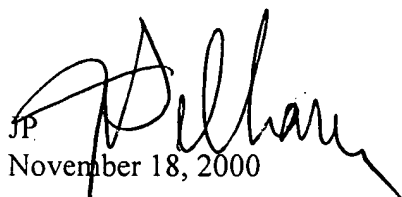
Conclusion

4. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication should be directed to Joseph Pelham at telephone number (703) 308-1709, or fax (703) 308-7764.

JP
November 18, 2000



**JOSEPH PELHAM
PRIMARY EXAMINER**